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AZ STATE COMMISSION
DOCKET CONTROL

February 12, 2008

Docket Control
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007-2996

Arizona Corporation Commission

DOCKETED

FEB 13 2008

Re: Escrow Instructions Related to Pine Water Co.
Docket No. W-03512A-07-0362

DOCKETED BY

As a private citizen, property owner within the Strawberry Water Co. ("SWCo" or "Company") CC&N, and a customer of SWCo, I wish to bring to your attention a series of actions (a "sham") that appears to directly violate the requirements and the spirit of the Commissions rules related to the above case.

Under the administrative rules of the ACC, PWCo as a public service corporation is required to seek your approval (1) to incur debt, and (2) to encumber any of its property, plant, and equipment. The *Well Development Agreement* (Agreement) between PWCo and the Pine/Strawberry Water Improvement District ("PSWID" or "District") dated 5-1-07, at section 4.2.1.1a required such approval of the ACC prior to the parties proceeding with PSWID loaning \$300,000 to PWCo (the "Loan"). This loan is for funding the construction of an exploratory well to be located on a parcel of land in Strawberry known as the K2 site recently acquired by PWCo from its sister company (Strawberry Water Co.). In addition, at section 4.2.1.5 of the Agreement, PWCo agreed to grant PSWID a security interest in the K2 site where the new well is to be located.

Here is my concern: On January 30, 2008, at a special meeting of the PSWID attended by a PWCo representative, the PSWID and PWCo entered into an escrow instruction ("Escrow") as required in the Agreement that allows for funding of the \$300,000 loan. (NOTE: These escrow instructions can be found at www.pswid.org) **In the Escrow Instructions, at Section 1 (a) (iv), PWCo and PSWID jointly and directly waived the provisions of the requirements for ACC approval that were contained in the original 5-1-07 Agreement. Instead they agreed to move forward without your approval** (1) to open the Escrow that obligates PWCo to the terms of the Loan, and to have the PSWID funds disbursed by the escrow agent directly to the well driller/material suppliers that are under contract to PWCo (not under contract with PSWID); and (2) to have PWCo execute a valid signed lien document on the K2 site to PSWID (not the escrow agent) for the District to hold without recording until such time as ACC's future approval is received (document is out of PWCo's control during that time). In the meantime, the

project has started (tree removal, light excavation, and blue staking has already occurred) and funds will be spent, and debt is being incurred by PWCo.

From the oral explanation given by Mr. Richey (PSWID Board member and K2 project administrator under the Agreement), **it appears the diversion of funds directly to PWCo's driller/material suppliers was being used to justify that no debt was incurred by PWCo since the funds did not go through PWCo's hands to pay their suppliers.** Since the 5-1-07 Agreement calls for PWCo to engage the driller/suppliers, this diversion of funds directly from PWCo to the driller/suppliers (thereby by-passing the PWCo checking account) in no way eliminates the fact the contractor obligations are those of PWCo. A debt of PWCo owed to PSWID is thereby created with this process, which is designed to seemingly skirt the ACC requirements for pre-approval of debt.

Equally disgusting from the explanation of Mr. Richey, is the fact **he indicated the executed lien document related to the encumbered property is being held by PSWID and not properly recorded as required; thereby PWCo has supposedly not violated the provisions requiring ACC pre-approval of the encumbrance of the property.** Once the executed document is out of the hands of PWCo (the debtor) and placed in the hands of the District (the creditor), PWCo has violated the ACC requirements for pre-approval of issuance of encumbrances. Not recording the lien does not invalidate the intent or actions of the parties to move forward with the terms of the Agreement without the required approval of the ACC.

The advancement of funds by the District without ACC debt approval, and the advancement of funds without the required lien in place and recorded at Gila County also directly violates the trust the District rate-payers and property owners have placed in the PSWID Board. This series of actions (the "sham") by both parties appears to be designed to violate both the Commissioners' pre-approval requirements as well as the fiduciary responsibility of the District to protect the funds of its constituents.

This transaction, in direct violations of your approval processes, needs to be stopped before a significant portions of the taxpayer funds disappear to well drillers, material suppliers, surveyors, excavators, etc. for a project that may be half completed before it is stopped because of non-approvals of the ACC, Gila County Planning, Zoning, and Development (permits not yet obtained), and your legal staff that has been asked by Commissioner Mayes to rule whether the Loan violates the Arizona Constitution restricting tax money being loaned to a public service corporation..

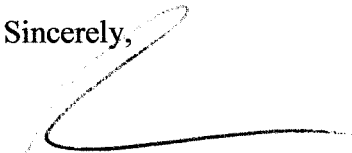
This rush to starting drilling without your approval is apparently motivated by and being justified by the Company and the District because of the immediate need for additional water sources to meet demand this coming summer. Also, the rush may also be tied to trying to the "lame duck" strategy of having the project well underway prior to the recall election of four PSWID Board members to be held on March 11, 2008. Regardless of the motivation, it should not be allowed to proceed illegally, and without your approval.

As you are aware, substantial water resources are available to serve the communities of Pine and Strawberry, but the company did not start their water exploration and development process as early as they should have (many years back or as recent as your 2005 Decision No. 67823 ordering the Company to study the situation and to put a long-term solution in place). The company, in an apparent attempt to keep from losing its CC&N because of inadequate service, is seemingly trying to position itself to do its typical thing, which is to be able to place the blame for poor water service and likely severe water outages this coming summer on (a) the ACC for imposing moratoria and holding up approval of the K2 project, (b) the complainants in related cases for filing lawsuits, and (c) on Gila County for approving successful improvement districts over the last 15+ years. This strategy of always shifting blame to others for the Company's lack of reasonable efforts and investment in new water resources should not be allowed since they have directly violated your pre-approval requirements related to incurrence of debt and encumbrance of property. With this sham, the Company and the PSWID appear to have jointly and fraudulently schemed to deceive the public as to the appropriateness and financial security of the public funds involved.

Therefore, I request that you elected Commissioners exercise your authority to invalidate the escrow agreement and stop the resulting consequences of adding to the unapproved PWCo debt that is accumulating daily with the expenditures of PSWID Escrow funds (for drillers, materials, etc) that are direct contractual obligations of the Company.

In addition, I request the Commissions to immediately revoke the CC&N of PWCo due to its inadequate service, its existing "sham" in process, its running roughshod over our community members, its high hauling charges, and the excessive costs to the State of Arizona for monitoring of nearly all its activities.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Raylene Davis Krafczyk', with a long horizontal flourish extending to the right.

Raylene Davis Krafczyk

Cc: Gila County Attorney
Arizona Attorney General